

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

|                           |   |          |
|---------------------------|---|----------|
| CHARLES MCLANE,           | ) |          |
| Plaintiff,                | ) |          |
|                           | ) |          |
| vs.                       | ) | CASE NO. |
|                           | ) |          |
| SCHOOL CITY OF MISHAWAKA, | ) |          |
| Defendant.                | ) |          |

**PLAINTIFF'S COMPLAINT AND JURY DEMAND**

Jurisdiction

1. This action arises under *Americans with Disabilities Act*, 42 U.S.C. Sec. 12101 *et seq*, as Amended, (hereinafter known as the "ADA"), *The Rehabilitation Act* (29 USC Sec 701 *et seq*, *The Age Discrimination in Employment Act*, 29 U.S.C. Sec 621 *et seq*.

2. Jurisdiction is invoked pursuant to 28 U.S.C. § 1331 and 1343(4) and 42 U.S.C. § 2000e-5(f). A Right-To-Sue letter was issued by the Equal Employment Opportunity Commission (EEOC), based upon charge affidavits timely filed with the EEOC.

Venue

3. This action properly lies in the Northern District of Indiana, South Bend Division, pursuant to 29 U.S.C. § 1391(b), because Plaintiff's claims arose in this judicial district and the alleged unlawful actions were committed in this judicial district.

Parties

4. Plaintiff, Charles McLane, is a male, age 67 and is currently and was at all times relevant a citizen and resident of the United States.

5. Defendant, School City of Mishawaka, is a consolidated school corporation acting

under the law of the state of Indiana which operates a school district in Mishawaka, Indiana.

6. School City of Mishawaka is an employer, engaging in an industry affecting commerce, employs more than fifteen (15) regular employees, located in St. Joseph County, Indiana.

#### COUNT I

7. Plaintiff re-alleges and incorporates paragraphs 1-6 of this Complaint.

8. Plaintiff was employed by School City of Mishawaka and his latest job title was grounds keeper until his termination from employment on June 12, 2014.

9. Plaintiff is and at all relevant times was qualified individual with a disability under the Americans with Disabilities Act, 42 U.S.C. 12102(1)(C) and 42 U.S.C. Sec 12102(3)(A) since he was regarded by School City of Mishawaka as having an impairment since his employment was terminated because of his actual or perceived disability whether or not the impairment limited or perceived to limit a major life activity.

10. School City of Mishawaka also refused to accommodate Plaintiff's disability and Plaintiff is a qualified individual under the ADA who has a disability and School City of Mishawaka's termination of Plaintiff from employment was due to his disability and was in violation of the ADA pursuant to 42 U.S.C. Sec. 1201 *et seq.*

11. Plaintiff has suffered emotional distress, humiliation, embarrassment and mental anguish and has lost wages and benefits.

12. School City of Mishawaka was also acting with willful indifference or conscious disregard of Plaintiff's rights when it terminated him from employment.

WHEREFORE, Plaintiff respectfully requests the following relief:

1. Enter judgment that School City of Mishawaka's acts, policies, practices and

procedures complained of herein violated Plaintiff's rights as secured by the ADA.

2. Order School City of Mishawaka to make whole the Plaintiff who has been adversely affected by the policies and practices described herein by providing appropriate back pay, front pay, and reimbursement for lost pension, social security, experience, training opportunities and other benefits in an amount to be shown at trial and other affirmative relief; and

3. Retain jurisdiction over this action to assure full compliance with the orders of the Court and with applicable law and required School City of Mishawaka to file such reports as the Court deems necessary to evaluate compliance; and

4. Award Plaintiff his attorney fees, costs and disbursements; and

5. Award Plaintiff such additional relief as the Court deems just and proper; and

6. Award Plaintiff compensatory and punitive damages.

7. Grant Plaintiff a jury upon these issues triable by jury.

## COUNT II

13. Plaintiff re-alleges and incorporates paragraphs 1-12 of this Complaint.

14. School City of Mishawaka is an employer covered by The Rehabilitation Act, 29 USC Sec 701 *et seq*, including but not limited to since it receives federal funds and/or is a federal contractor as defined by The Rehabilitation Act.

15. Plaintiff is a qualified individual with a disability under the Rehabilitation Act and School City of Mishawaka violated The Rehabilitation Act by terminating the Plaintiff due to an actual or perceived disability of Plaintiff and by refusing to accommodate Plaintiff's disability.

16. Plaintiff has suffered emotional distress, humiliation, embarrassment and mental anguish and has lost wages and benefits.

17. School City of Mishawaka was also acting with willful indifference or conscious disregard of Plaintiff's rights when it terminated him from employment.

WHEREFORE, Plaintiff respectfully requests the following relief:

1. Enter judgment that School City of Mishawaka's acts, policies, practices and procedures complained of herein violated Plaintiff's rights as secured by the Rehabilitation Act.

2. Order School City of Mishawaka to make whole Plaintiff who has been adversely affected by the policies and practices described herein by providing appropriate back pay, front pay, and reimbursement for lost pension, social security, experience, training opportunities and other benefits in an amount to be shown at trial and other affirmative relief; and

3. Retain jurisdiction over this action to assure full compliance with the orders of the Court and with applicable law and required School City of Mishawaka to file such reports as the Court deems necessary to evaluate compliance; and

4. Award Plaintiff his attorney fees, costs and disbursements; and

5. Award Plaintiff such additional relief as the Court deems just and proper; and

6. Award Plaintiff compensatory and punitive damages.

7. Grant Plaintiff a jury upon these issues triable by jury.

### COUNT III

18. Plaintiff re-alleges and incorporates paragraphs 1-17 of this Complaint

19. School City of Mishawaka terminated Plaintiff due to his age in violation of the Age Discrimination in Employment Act, 24 U.S.C. Sec. 621 *et seq* as well as discriminated against Plaintiff due to his age in the terms and conditions of his employment.

20. School City of Mishawaka engaged in willful and intentional age discrimination

with malice and recklessness indifference to Plaintiff's rights and Plaintiff is now suffering and will continue to suffer emotional pain, suffering mental anguish and loss of enjoyment of life as a direct result of the discrimination.

WHEREFORE, Plaintiff prays that this Court:

1. Declare the conduct engaged in by Defendants to be in violation of Plaintiff's rights;
2. Enjoin from engaging in such conduct;
3. Award Plaintiff equitable relief of back salary, fringe benefits and front pay;
4. Award Plaintiff compensatory, liquidated, and punitive damages;
5. Award Plaintiff costs and attorney fees; and
6. Grant such relief as it may deem just and proper.

Respectfully submitted,

/s/Richard LaSalvia  
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Attorney for Plaintiff

Jury Demand

Plaintiff demands trial by jury on all issues so triable.

/s/Richard J. Lasalvia  
Richard J. LaSalvia